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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,188	10/03/2001	Gowri Rajaram	UTL 00143	9788
32968	7590	10/20/2004	EXAMINER	
KYOCERA WIRELESS CORP. P.O. BOX 928289 SAN DIEGO, CA 92192-8289			VO, TED T	
		ART UNIT		PAPER NUMBER
		2122		

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/970,188	RAJARAM, GOWRI
Examiner	Art Unit	
Ted T. Vo	2122	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(h).

## Status

1)  Responsive to communication(s) filed on 03 October 2001.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1,2,18-20 and 35 is/are rejected.  
7)  Claim(s) 3-17 and 21-34 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/26/04.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date.       .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other:       .

**DETAILED ACTION**

1. This action is in response to the application filed on 10/3/01 and the Preliminary Amendment filed on 6/21/04.

Claims 1-35 are pending in the application.

***Information Disclosure Statement***

2. Some contents, cited documents, in Information Disclosure Statement filed on 1/26/04, which are not marked with initials, are not considered by examiner because these documents are not written in English, and/or not submitted. See MPEP, 37 CFR 1.98(a)(3)(ii).

It has been placed in the application file, but the contents referred to therein have not been considered. See MPEP 609.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 18-20, 35 are rejected under 35 U.S.C. 102(3) as being anticipated by Moles et al., US Patent Application, Pub. No. 2002/0072359 A1.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: Moles discloses, "*In a wireless communications device, a method for field diagnosing system software, the method comprising: executing system software; launching a run-time engine; and processing dynamic instruction sets to field diagnose the system software*": See Moles' discussion of prior art (block text 0014), and see section: Summary of The Invention (block text 0018), referring to "mobile station diagnostic testing system": *run-time engine*.

As per Claim 19: Claim 19 is claiming a system having limitation corresponding to Claim 1. Claim 19 is rejected in the same reason as set forth in Claim 1.

As per Claim 2: Moles discloses, "*The method of claim 1 further comprising: in response to field diagnosing the system software, operating on system data and system software; and, following the operating on the system software and system data, executing the system software*": See Moles' discussion of prior art (block texts 0014, 0015, 0016, 0017).

As per Claim 20: Claim 20 is claiming a system having limitation corresponding to Claim 2. Claim 20 is rejected in the same reason as set forth in Claim 2.

As per Claim 18: Moles discloses,

*In a wireless communications device, a method for field diagnosing system software, the method comprising: executing system software; launching a run-time engine* (See Moles' discussion of prior art (block texts 0014, 0015, 0016, 0017); and see section: Summary of The Invention (block text 0018), referring to "mobile station diagnostic testing system": *run-time engine*);

*receiving patch manager run time instructions (PMRTI), including dynamic instruction sets and new code sections, in a file system section nonvolatile memory* (See block texts 0028, 0030, referring "downloading bytecode" *receiving patch manager run time instructions*);

*processing dynamic instruction sets to field diagnose the system software as follows: executing the diagnosis instruction sets with the system software to collect data; analyzing the collected data;*

*in response to analyzing the collected data, operating on system data and system software; and, following the operating on the system software and system data, executing the system software. (See section: Summary of The Invention (block text 0018), and see block texts 0028, 0030, 0031, 0032).*

As per Claim 35: Claim 35 is claiming a system having limitation corresponding to Claim 18. Claim 35 is rejected in the same reason as set forth in Claim 18.

#### **Allowable Subject Matter**

5. Claims 3 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The cited prior arts of record taken alone or in combination, including prior art of record, Moles et al., fail to teach at least claimed features:

*"forming the system software into symbol libraries, each symbol library comprising symbols having related functionality; arranging the symbol libraries into code sections in a code storage section nonvolatile memory; and, receiving patch manager run time instructions (PMRTI), including dynamic instruction sets and new code sections, in a file system section nonvolatile memory" as recited in Claim 3 and in such manners in Claim 21.*

Claims 4-17, and Claims 22-34 are objected to because the claims depend on the above claims which are objected to.

#### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Martin**, US No. 6,785,541 B2 discloses implementation of a maintenance application in cellular switching system.

**Turek et al.**, US No. 6,460,070 B1 discloses a method of diagnosing a fault in large distributed enterprise computer network.

**Guiagoussou et al.**, "Implementation of a Diagnostic and Troubleshooting Multi-Agent System for Cellular Networks", discloses implementation of a maintenance application for cellular switching system using the multi-agent paradigm.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be reached on 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

After October 28, 2004, examiner can be reached at new telephone number (571) 272-3706 and the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3694.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*TED T. VO*

TTV  
Patent Examiner  
Art Unit 2122  
October 13, 2004